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CER Position paper

Commission proposal COM(2017)648 – amending Directive 92/106/EEC on combined transport

About CER

The Community of European Railway and Infrastructure Companies (CER) brings together more than 70 railway undertakings, their national associations as well as infrastructure managers and vehicle leasing companies. The membership is made up of long-established bodies, new entrants and both private and public enterprises, representing 73% of the rail network length, 77% of the rail freight business and about 93% of rail passenger operations in EU, EFTA and EU accession countries. CER represents the interests of its members towards EU policy makers and transport stakeholders, advocating rail as the backbone of a competitive and sustainable transport system in Europe. For more information, visit www.cer.be or follow us via Twitter at @CER_railways.

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SUMMARY

Road-rail combined transport services play a major role in the rail freight business and in the wider freight transport sector.

Intermodal rail freight is a growing segment and accounts for more than 20% of the total rail freight. It grew by 43% in the period 2005-2015¹. The Combined Transport Directive 92/106/EEC provides the legislative framework at EU level for these services, acknowledging its specificities and enabling regulatory advantages and incentives.

In this context, CER supports the objective of the proposal COM(2017)648, which is to **“further increase the competitiveness of combined transport compared to long-distance road freight and therefore strengthen the shift from road freight to other modes of transport”**.

This initiative is even more important in the year that the Commission dedicates to multimodal transport, as it provides an opportunity for decision-makers to support a growing multimodal solution with rail as the backbone for long-distance freight services, while bringing the EU closer to its target of shifting 30% of road freight to rail and inland waterways by 2030.

The proposed revision includes a number of positive aspects and is broadly supported by CER members. At the same time, some proposed amendments need further consideration in order to avoid unintended consequences that would prevent rather than incentivise modal shift from road to rail. Furthermore, CER members believe that this revision provides an opportunity to speed-up and simplify the state aid procedures aimed at providing public financial support to combined transport operations.

1. Scope and definition of ‘combined transport’ – article 1

- The new proposed definition of the maximum distance of the road leg as 150 km or 20% of the total distance, irrespective of the non-road leg type (rail, inland waterways or maritime) aims at providing greater flexibility. However, CER members considers that the new “20%” provision clashes with the aim of harmonising this piece of legislation with Directive 2015/719 on weights and dimensions of road vehicles and will eventually fail to provide the necessary legal clarity for combined transport operations.
- The proposed reference to international standards ISO6346 and EN13044, in the context of the identification regime of loading unit, is generally welcomed as it can serve as a basis for digitalization processes in CT. However, a reference to ISO and EN for all units will exclude non-cranable units from the scope of the Directive. CER believes that the Directive should remain technology-neutral and restrict the reference to cases where ISO and EN are applicable.

¹ International Union of Railways (UIC)

2. Eligibility – article 3

- The proposed measures under article 3 on the evidence to be provided for the road leg of a CT operation, if confirmed, will have the unintended consequence of reducing the attractiveness of combined transport operations, because of the excessive administrative burden imposed.
- CER supports the proposed solution made by UIRR in their position paper², which consist of separating the dataset to be provided as 'evidence' to the authorities into the two groups, i.e. (1) information on the CT operation as it was originally planned, to be handed to the authorities at any time, e.g. during roadside checks, and (2) information on the CT operation to be provided to the authorities ex-post. This would reduce the compliance burden to a minimum for companies performing the CT operation.
- CER also supports an inclusion in art. 3(5) of a reference to the e-CIM (Uniform Rules Concerning the Contract of International Carriage of Goods by Rail). Combined transport operations may already be carried out using the CIM consignment note as a proof of eligibility, which covers national road legs as well as international rail legs, without the need for an extra road-specific document. The Electronic version of the CIM Consignment note feature as a possible choice in parallel to the E-CMR.

3. Reporting obligations – Article 5

- CER supports the objective of ensuring a proper application of the Directive with an enhanced mechanism for reporting conditions and obligations. It is however important that the new measures do not translate into a burden for the business. Where comprehensive data are already submitted, additional red tape and double reporting should be avoided.
- In the context of the flow of information from businesses to authorities, CER reminds that it is not appropriate to share precise information concerning the nature of the cargo both for commercial and security reasons.

4. Economic Support Conditions – Article 6

- CER members very much support the proposed extension of the scope of the economic supporting measures, by including investments in multimodal terminals and potentially additional financial incentives.
- In this context, CER believes that additional provisions aimed at reducing red tape in the state-aid procedures to combined transport operations can play a decisive role. This revision provides a unique opportunity.
- CER proposal is to make public support to combined transport operations automatically compatible with EU relevant state-aid rules, hence without the need of notifying the support scheme to the European Commission, if the state-aid is below 35% of the cost of the operation. This threshold is appropriate as it would compensate the current regulatory discrepancies suffered by rail freight vis-à-vis other transport modes, without a distortive effect on competition. This provision will significantly speed-up the process and boost the market by making state aid eligible 3 years earlier compared to the current framework.

² UIRR [Position Paper](#) of 22 January 2018: "Directive 92/106: a good proposal"